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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/678,549	10/04/2000	Rois O. Cordova	INTL-0473-US(P10020)	5766
21906	7590	12/02/2003	EXAMINER	
TROP PRUNER & HU, PC 8554 KATY FREEWAY SUITE 100 HOUSTON, TX 77024				FLYNN, KIMBERLY D
ART UNIT		PAPER NUMBER		
2153				5

DATE MAILED: 12/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/678,549	CORDOVA, ROIS O.
Examiner	Art Unit	
Kimberly D Flynn	2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 22 September 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-25 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-25 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a)  The translation of the foreign language provisional application has been received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ . 6)  Other: \_\_\_\_\_ .

## **DETAILED ACTION**

1. This action is in response to an Amendment filed September 22, 2003. Claims 1-25 are presented for further consideration.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 5-6, 9-11, 15-16, and 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shepherd in view of Kohler (U.S. Patent No. 6,192,396).

In considering claims 1, 11, 21, and 25, Shepherd discloses forwarding a software package to a terminal or terminals, (col. 3, lines 35-41); and enabling said first processor-based system to automatically forward said software package together with at least part of said list of addresses to a second processor-based system, said second processor-based system being on said list of addresses (col. 3, lines 43-58).

While Shepherd discloses the invention substantially as claimed Shepherd does not particularly disclose the destination (which identifies a terminal that is to receive the software package) including a list of addresses. Including a list of addresses in a forwarded data package, indicative the package's recipients, is well known in the art as evidenced by Kohler. Kohler discloses wherein an attachment to a message, (which may include software) includes a list of

addresses (recipients) indicating who is designated to receive the package (see Kohler, Fig 8 and col. 10, lines 55-61 and col. 37-41). It would have been obvious to a person having ordinary skill in the art to modify the software distributing system disclosed by shepherd to include the recipient address list as taught by Kohler so that the software package can be sent one time to multiple recipients instead of being sent multiple times to multiple recipients.

In considering claims 5 and 15, while Shepherd discloses forwarding a transfer complete message to the management station to advise the management station that the software package has been transmitted to the specified terminal (col. 3, lines 59-67), Shepherd does not disclose sending the software package together with a checksum to enable the second processor-based system to confirm with the first processor-based system that the software package was received correctly. Nonetheless, the method of receipt confirmation is merely a design choice and would not change the overall functionality of the system. It would have been obvious to a person having ordinary skill in the art to include sending the software package along with a checksum to confirm that the software package was received correctly as an alternate delivery confirmation method. Therefor, the claimed limitation would have been an obvious modification the system disclosed by Shepherd.

In considering claims 6 and 16, Shepherd further discloses including causing said first processor-based system to forward said software package to said second and a third processor-based system (col. 4, lines 43-51).

In considering claims 9 and 19, Shepherd further discloses transferring said software package together with software that enables said second processor-based system to transfer said software package to a third processor-based system (col. 4, lines 20-27).

In considering claims 10 and 20, Shepherd further discloses enabling said first processor-based system to forward said software package to said second processor-based system during a low activity time on said first processor-based system (col. 4, line 28-42).

In considering claims 22, Shepherd further discloses a system wherein the device is a server. (While Shepherd does not refer to the device 12 of fig 1, as a server; it performs all of the functions of a server and is therefore functionally equivalent to a server).

In considering claims 23, Shepherd further discloses wherein said server is a network management server (see fig. 1, means (12)).

In considering claims 24, Shepherd further discloses wherein said device is a client (see fig. 1, means (16-1-n)).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-4, 7-8, 12-14, and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler in view Shepherd in further view of Mapson.

In considering claims 2-4, 7-8, 12-14, and 17-18, while the combined system of Kohler and Shepherd discloses the system substantially as claimed, the system does not disclose the step of encrypting the software package for transmission between said first and second processor-based systems and changing the encryption in a known fashion with each successive transfer from one to the next processor-based system. Nonetheless, encrypting software packages and

changing the encryption with each transfer of the software was well known to one skilled in the relevant art at the time the invention was made as evidenced by the teachings of Mapson.

In similar art, Mapson discloses a distribution system with authentication that provides a method of distributing one or more copies of goods and/or services wherein the Integrity Check Value (ICV) is recalculated in a manner determinable from both the first location and the product. The product, including the recalculated ICV; is then distributed to a second location remote from the first location where the IVC of the distributed product is compared to the IVC known to the first location (see Mapson, page 1, lines 30-32; through page 2, lines 1-9). Therefore, one of ordinary skill in the art would have found it obvious to incorporate and implement the recalculated ICV in Shepherd's system in order to ensure the integrity of software distributed over an at least partially insecure network.

In considering claims 2 and 12, Mapson further discloses enabling said first processor-based system to install said software package on said first processor-based system, make a copy of said software package, and transmit said software package to said second processor-based system (see Mapson, page 2, lines 7-8).

In considering claims 3 and 13, Mapson further discloses causing said first processor-based system to automatically authenticate said software package (see Mapson, page 4, lines 31-32 through page 5, lines 1-2 and 15-16).

In considering claims 4 and 14, Mapson further discloses causing said second processor-based system to automatically authenticate said software package by sending a message to said first processor-based system (see Mapson, page 8, lines 23-29).

***Response to Arguments***

In response to Applicant's arguments, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Kohler (U.S. Patent No. 6,192,396).

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D Flynn whose telephone number is 703-308-7609. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 703-305-4792. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703) 746-7238, for After Final communications

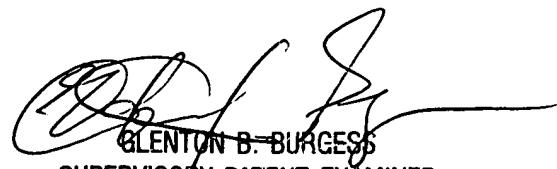
(703) 746-7239, for Official communications

(703) 746-7240, for Non-Official/Drafts.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Kimberly D Flynn  
Examiner  
Art Unit 2153

KF  
November 24, 2003



GLENTON B. BURGESS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100